



Docket No.: 5195

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: SALKINI et al.

Serial No.: 09/245,292

Examiner: C. Lee

Filed: February 5, 1999

Art Unit: 2663

For: MULTI-PROTOCOL WIRELESS COMMUNICATION APPARATUS AND METHOD

Box AF
Commissioner for Patents
Washington, D.C. 20231

RESPONSE

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Sir:

In response to the August 14, 2002 office action (Paper No. 18) and a November 25, 2002 telephonic interview, the time for response extended by the petition for extension of time filed herewith.

REMARKS

Claims 1-85 and 105-107 are pending. Claims 86-104 are subject to a restriction requirement and are withdrawn from consideration. The Applicants' representative, Sean S. Wooden, thanks the Examiner for the courtesies extended during the November 25th telephonic interview. In the telephonic interview, the Applicants' representative and the Examiner discussed the improper finality of Paper No. 18. The Examiner requested that the Applicants submit a response detailing why Paper No. 18 was improperly final. The Examiner stated he would review the response and issue a new, non-final office action. The Applicants do hereby submit such a response.

I. IMPROPER FINALITY

Paper No. 18 is improperly final, because it introduced new grounds of rejection not necessitated by amendment. According to MPEP 706.07(a):

Under present practice, second or any subsequent actions on the merits shall be final, except where the examiner introduces a new ground of rejection not necessitated by amendment of the application by applicant, whether or not the prior art is already of record.

Paper No. 18 introduced new grounds of rejection with respect to claims 27-29, 32, 33, 38, 54-58, 60-62, 66-68, 70, 74 and 75 (see Paper No. 18, page 7). These claims were not amended in the Applicants' most recent response, Paper No. 17, filed May 29, 2002. Therefore, this new grounds of rejection was not necessitated by amendment. Accordingly, Applicants respectfully request that the Examiner withdraw the finality of Paper No. 18 and issue a non-final office action, as required by MPEP 706.07(a). To do otherwise would be to deny the Applicants "a full and fair hearing," to which they are entitled. (See MPEP 706.07).

If the Examiner has any questions regarding this response or any other matter, the Examiner is respectfully requested to contact the Applicants' representative at the below number.

Respectfully submitted,



Dated: December 4, 2002

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